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Siemens Corporation  
Intellectual Property Department  
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In re Application of	: DECISION ON
WOLFGANG et al	:
Application No.: 10/550,781	:
PCT No.: PCT/DE2003/003288	:
Int. Filing Date: 02 October 2003	: PETITION UNDER
Priority Date: 28 March 2003	:
Attorney's Docket No.: 2003P04656WOUS	:
For: TEMPERATURE COMPENSATION ELEMENT	:
FOR A CONNECTION UNIT	: 37 CFR 1.181

This Decision is in response to applicants' "REQUEST TO WITHDRAW THE HOLDING OF ABANDONMENT" filed on 26 June 2008, which is being treating as a petition under 37 CFR 1.181 requesting that the above-identified application's declaration was timely filed on 07 August 2006 by facsimile.

#### BACKGROUND

On 2 October 2003, this international application was filed, which claimed priority of an earlier application filed 28 March 2003.

On 27 September 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee. No executed oath or declaration of the inventors accompanied the transmittal letter.

On 20 June 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration complying with 37 CFR 1.497(a) and (b), identifying the application by international application number and international filing date. The Notice stated that the above must be furnished within the time period set forth. The notification set two (2) months time limit or 32 months from the priority date for the application, whichever is later to respond.

On 28 September 2007, the United States Designated/Elected Office mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating, *inter alia*, that NOTIFICATION of MISSING REQUIREMENTS mailed 06/20/2006 have not been completed.

On 19 June 2008, the United States Designated/Elected Office mailed a Notification of ABANDONMENT (Form PCT/DO/EO/909) indicating that applicant had failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 06/20/2006 within the time period set therein.

On 26 June 2008, applicants submitted the instant petition stating that the declaration was allegedly timely filed by facsimile on 07 August 2006.

### DISCUSSION

A petition under 37 CFR 1.181 filed under 37 CFR 1.8(b) Certificated of mailing or transmission must be accompanied by:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Applicants have satisfied items (1), and (3) but not item (2) under 37 CFR 1.8(b).

With regard to item (1) above, the present petition was promptly filed.

With regard to item (2) above it is not satisfied, the present petition includes a copy of the previously transmitted correspondence and certificate of transmission, however, no copy of the executed declaration filed on August 7, 2006 has been filed.

With regard to item (3) above, the statement provided Ann Hickey is sufficient is confirming the timely transmission by facsimile of the correspondence; however, a copy of the executed declaration filed by fax on August 7, 2006 has not been provided.

Based on the above, the present submission does not satisfy the requirement of 37 CFR 1.8(b)(2). Accordingly, on the present record it cannot be concluded that the declaration was included with the present petition were originally filed by facsimile on August 7, 2006 as a timely response to the Notification Of Missing Requirements.

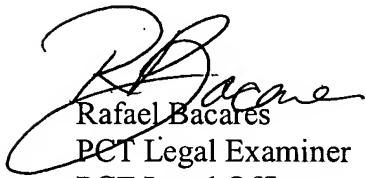
**CONCLUSION**

For the reasons discussed above, applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181 and 1.8(b) is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the mail date of the present decision and must include the materials required to satisfy 37 CFR 1.8(b)(3), as discussed above and in the MPEP. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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